Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

AUGUSTUS J. SIMMONS,

Petitioner,

vs.

HORACE B. WETHERALL, et al.,

Respondents.

On Petition For Writ Of Certiorari To The Supreme Court Of The State Of Connecticut

PETITION FOR WRIT OF CERTIORARI

AUGUSTUS J. SIMMONS
Petitioner
P.O. Box #1
Windsor, CT 06095
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31pp

QUESTIONS PRESENTED

1. The first question presented upon this contention of plaintiff is as to whether or not the proceedings herein referred to have been commenced and conducted in conformity with the requirements of state statutes and federal regulations so as to have given the trial court jurisdiction to render a decree.

2. Plaintiff prays this court grant Certiorari because of the great public interest and the important constitutional question involved, specifically whether the decree of the highest court of the state under *Simmons v. Wetherall*, #163875 violates the supremacy clause of the Constitution, Art. VI, CL. 2, Amend. 14, allegedly "frustrating" enforcement of the Uniform Real Property Acquisition Act, PL. 91-646 and lawful regulations issued thereunder. 84 Stat. 1894, 42 USC §§ 4601-4655.

3. The standard of review under equal protection rationality analyses is governed by federal constitutional law and "a state court's decision invalidating state legislation may be reversed by this court if the state court misinterpreted the relevant federal constitutional standard." *Minnesota v. Clover Leaf Co.*, 101 S.Ct. at p. 719, n.6.

4. Questions arising in state court relating to scope or construction of applicable federal statutes and regulations thereunder are federal questions which may be appropriately reviewed by the Supreme Court on Certiorari.

5. Where the record UTTERLY fails to show that minimum standards of procedural due process was not

QUESTIONS PRESENTED – Continued

observed in the rendition of a decree by the Supreme Court of Connecticut without any evidence or hearing whatever in the court of first instance; without subject matter jurisdiction or jurisdiction of the parties, and, without any pleadings, process, hearings or judgments.by the court below; without any determination, valuation, or payment of just compensation; where fraud, duress, coercion, collusion, conspiracy by and between the state and federal agency (F.A.A.) was the accepted norm, a review of such gross constitutional violations is pleaded for reversal.

6. Whether the lessor, Connecticut Department of Transportation and the lessee, Federal Aviation Administration – "acted in concert in doing the illegal act" – is of prime consideration to the courts where a lessor who leased lands it did not own was a T-R-E-S-P-A-S-S-E-R. *Simons v. United States*, 413 F.2d at P. 535, 536; *United States v. Wyoming*, 331 U.S. 440, 67 S.Ct. 1319, 91 L.Ed. 1590 (Exh. L, in the Lodging submitted herewith).

7. Where the ARBITRARY exercise of power is in clear conflict with those fundamental "principles which have been established in our systems of jurisprudence for the protection and enforcement of private rights," *Pennoyer v. Neff*, 95 U.S. 714, 733; *Booth v. Illinois*, 184 U.S. 425, 429; *Truax v. Corrigan*, 257 U.S. 312, 319, the decision of the highest court of the state was against the *TITLE, RIGHT, PRIVILEGE, FRAUD, IMMUNITY* so set up or claimed and where the court, in concert with discharged private counsel transmogrified plaintiff/owners legislative tort mandate into an exercise of eminent domain, and

QUESTIONS PRESENTED – Continued

where from the record by clear and necessary intendment, the FEDERAL QUESTION was directly involved so that the state Supreme Court could not have given judgment without deciding the question.

PARTIES TO PROCEEDING

Petitioner:

Augustus J. Simmons, Plaintiff/Owner

Respondents:

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JURISDICTION

The jurisdictional basis for this appeal is 28 U.S.C. § 1257 which had its origin in the act of September 24, 1789, 1 Stat. 73, 85, by that section, as construed in *Martin v. Hunter's Lessee*, 1 Wheat. 304, 4 L.Ed. 97 (1816), strongly reinforced by *Cohens v. Commonwealth of Virginia*, 6 Wheat. 264, 5 L.Ed. 257 (1821), the denial of a claim of a federal right in the final judgment of the highest available court of a state could be brought for review at the bar of this court.

OPINION BELOW

Plaintiffs motion and briefs to the Chief Clerk of the Supreme/Appellate Court, dated November 4, 1999 to REMAND – REFER – TRANSFER – ASSIGN to the lower court (Superior), to appoint three (3) referees pursuant to the Practice Book for determination of just compensation which court has continuing jurisdiction over Docket #163875 that possesses vested and accrued real property rights for a "taking" of plaintiffs Parcel "C" for "airport" purposes, not later than November 12, 1964 by governmental action of the federal agency (F.A.A.) acting in concert with the state agency, Connecticut Department of Transportation, under FEDERAL GRANT AGREEMENT #9-06-009-5708 (1955) for which "TAKING" no fair or just compensation was ever paid as mandated by the Fifth and Fourteenth Amendments of the Constitution; by the procedural mandates of the Federal Grant Agreement; by public law 91-646 (42 U.S.C. §§ 4601-4655); by Special Act #170 (1969). Ex. "I"

ORDER

The ORDER, dated November 30, 1999 from the Chief Clerk, Supreme/Appellate Courts reads:

The motion of the plaintiff, filed November 4, 1999, to remand to Superior Court to appoint referees to determine just compensation for taking, having been presented to the court, is hereby ordered DISMISSED. Ex. "II"

ORDER [INVALIDATED]

The motion for approval of stipulation for and order of reference, waiving a jury trial and referring to a state referee, in accordance with CGS § 52-434 and 52-434a, all further proceedings therewith as if the subject matter had been originally brought before such state referee rather than as a jury trial which has now been waived by all parties.

The ORDER, dated June 2, 1976 by Hon. Dannehy, J. reads:

ORDER

Hon. Louis Shapiro, State Referee, is hereby appointed to hear all further proceedings and render judgment on the above entitled matter.

(6-2-76 Dannehy, J.) By the court,

_____

Peter H. Gooden
Assistant Clerk

Ex. "III"

STATUTE AND CONSTITUTIONAL PROVISIONS

The Constitution of Connecticut provides that – "no person shall be deprived of life, liberty or property, without due process of law." Art. I § 11.

Amendment XIV, Constitution of the United States

" . . . nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Amendment V, Constitution of the United States

" . . . nor shall private property be taken for public use without just compensation."

42 U.S.C. § 4655 (P.L. 91-646-January 2, 1971)

Requirements for uniform land acquisition policies; payments or expenses incidental to transfer of real property to state; payment of litigation expenses in certain cases.

Notwithstanding any other law, the head of a federal agency shall not approve any program or project which will result in the acquisition of real property on and after the effective date of this title, unless he receives satisfactory assurances from such agency that –

(1) In acquiring real property it will be guided, to the greatest extent practicable under state law, by the land acquisition policies in Section 301 and the provisions of Section 302, and

(2) Property owners will be paid or reimbursed for necessary expenses as specified in Sections 303 and 304.

Amendment of Section 4655

Public law 100-17, Title IV §§ 417, 418, April 2, 1987, 101 Stat. 256, provided that, to take effect on the effective date provided in regulations promulgated under Section 4633 of this title (as amended by Section 412 of Pub. L. 100-17), but not later than two years after April 2, 1987, this section is amended by designating existing provisions as Subsec. (a), in Subsec. (a) as so designated striking out "a state agency" the first place it appears and inserting in lieu thereof "an acquiring agency" and striking out "state agency" the second place it appears and inserting in lieu thereof "acquiring agency," and by adding at the end thereof the following new Subsec. (b):

"(b) For purposes of this section, the 'acquiring agency' means –

"(1) a state agency (as defined in Section 4601(3) of this title, which has the authority to acquire property by eminent domain under state law," and

"(2) a state agency or person which does not have such authority, to the extent provided by the head of the lead agency by regulation."

STATEMENT OF THE CASE

This case is an AIRPORT-related case that transcends back to a 1955 Federal-Aid Grant Agreement between federal and state agencies wherein the state agency (Connecticut Dept. of Transportation) was obligated under the grant agreement to acquire "satisfactory property interests" as defined in 14 C.F.R. § 152.3 for what would

ultimately become a navigational servitude imposed upon the owner by the federal agency (F.A.A.) with the invasion, appropriation, installation on the surface of the real property, sophisticated navigational instrumentation controlling ingress and egress of air traffic at Bradley Airport, Connecticut's premier airport in the summer of 1962.

Starting on February 28, 1962 with a tortious course of conduct, the state agency initiated the first condemnation that was negated by the courts as arbitrary, unconstitutional with procedural problems (153 Conn. 351 (1966)) and was remanded.

In January, 1968 the state instituted condemnation proceedings a second time under Conn. General Statute § 48-12, in lieu of C.G.S. § 15-79 and again the court ruled the proceeding "null and void". (160 Conn. 492 (1971))

During the 1969 session of the Connecticut Legislature a special act was passed by the general assembly allowing Augustus Simmons to sue the state for DAMAGES over "loss of use of land" arising out of the bumbling condemnation proceedings. On January 5, 1970 Plaintiff/Owner Simmons brought such a suit *Simmons v. Wetherall,* Docket #163875 which had several hearing dates scheduled that were all aborted. To date, damages have not been addressed and the action is still pending.

During the summer of 1974 the federal agency, F.A.A., without having paid any compensation, intended to upgrade the navigational servitude with the addition of a "middle marker" on private property and in lieu of negotiating a lease with the owner, enters into a lease with the sponsor of the airport, notwithstanding they had

full knowledge that title reverted back to the owner on the land records on March 24, 1972 after the second condemnation was ruled null and void.

In December, 1977, plaintiff retained the firm of Rogin-Hirtle, Esq.'s to represent him upon scheduled days for hearings in damages before referee Shapiro and the very first act of private counsel was an attempt to give the state (and the F.A.A.) "complete insulation from and absolution from all of its sins" by invalidating the hearings in damages and for which a dismissal, discharge, in writing, was hand delivered on December 23, 1977. The discharge of 12/23/1977 was not sufficient to curb the tortious course of conduct.

Where the matter of subject matter jurisdiction and of indispensable parties was ARGUED before the court of competent jurisdiction, Hon. Dupont, A., on June 7, 1982 and the STATE vigorously and vehemently challenged the superior court with lack of subject matter jurisdiction and the court, so recognizing, denied compensation from the slush fund to indispensable parties (VALENTE-ALLAIRE), yet, did not, would not set aside the void decree due to a supreme court ruling under *Simmons v. Wetherall*, 180 Conn. 587 (1980).

Where the "Slush Fund" monies were allowed to remain before the court from 1978 to 1991 before returning said monies to the state treasury, signifies FEDERAL QUESTION VIOLATIONS of the most severe nature, extending indefinitely the original unlawful, unconstitutional entry by the F.A.A. and the State of Connecticut.

REASONS FOR GRANTING THE WRIT

1. It is plain that the practical effect of the judgment of the Connecticut Supreme Court is to deprive the plaintiff of property without affording it at any time an opportunity to be heard in its defense. The plaintiff asserted an invasion of its substantive right under the federal Constitution to equality of treatment. If the allegations of the complaint could be established, the federal Constitution conferred upon the plaintiff the right to be heard at a meaningful time, and in a meaningful manner to meet currently accepted standards of procedural due process in the area of property rights. *Kukanskis v. Griffith*, 180 Conn. 501 (1980); see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 92 S.Ct. 1983, 32 L.Ed. 2d 556 (1972), rehearing denied, 409 U.S. 902, 93 S.Ct. 177, 342 L.Ed. 2d 165 (1972); *Lynch v. Household Fin. Corp.*, 405 U.S. 538, 92 S.Ct. 1611, 31 L.Ed. 2d 424 (1972); *Sniadich v. Family Fin. Corp.*, 395 U.S. 337, 89 S.Ct. 1820, 23 L.Ed. 2d 349 (1969); *Mitchell v. W.T. Grant Co.*, 416 U.S. 600, 94 S.Ct. 1895, 40 L.Ed. 2d 406 (1974); *North Georgia Finishing Inc. v. Di-Chem Inc.*, 419 U.S. 601, 95 S.Ct. 719, 42 L.Ed. 2d 751 (1975).

2. Where the highest court of the state acted in an unconstitutional manner, no other judicial remedy is open to the plaintiff. After the decision by the highest court (180 Conn. 587 (1980)), it has been entirely futile for the plaintiff to apply for a judicial remedy to the lower court that acknowledged it was without subject matter jurisdiction on June 7, 1982; Hon. Dupont, A. presiding upon challenge by the Atty. General's office that the court was powerless to make any payments to lien-holders for reasons plaintiff/owner refused to tender any deeds. See Ex. "P"

3. If the judgment of the state Supreme Court is permitted to stand, deprivation of plaintiffs property is accomplished without its ever having had an opportunity to defend against the unconstitutional course of conduct, and, without payment of any just compensation. Superior Court refused to hear or act on plaintiffs complaint and denied relief; not because of lack of power or because of any demerit in the complaint, or previous decisions, but because – "the Supreme Court has acted and the lower court will not act to override the Supreme Court."

4. If the result of the state Supreme Court is not set aside, the transgression of the due process clause of the Fourteenth Amendment would be obvious. *Ettor v. Tacoma*, 228 U.S. 148 (1913). See also *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 273 (1930). The federal guaranty of due process extends to state action through its judicial as well as through its legislative, executive, or administrative branch of government. Where plaintiff's claim is one arising under the federal Constitution and, one on which the opinion of the highest state court has not decided finality, the question whether plaintiff has been accorded due process in the primary sense, – whether it has had an opportunity to present its case and be heard in its support is the question before the court. Whether acting through its judiciary or through its legislature, a state may not deprive a person of all existing remedies for the enforcement of a right, which the state has no power to destroy, unless there is, or was afforded to him some real opportunity to protect it. *Postal Telegraph Cable Co. v. Newport*, 247 U.S. 464, 475-6 (1918).

5. The pertinent words of the Fifth Amendment of the Constitution of United States are the familiar ones:

"nor shall private property be taken for public use, without just compensation." That prohibition, of course applies against the states through the Fourteenth Amendment. *Chicago B. & Q.R. Co. v. Chicago*, 166 U.S. 226, 239 (1897); *Penn Central Transp. Co. v. New York City*, 438 U.S. 104, 122 (1978). The installation of navigational instrumentation by the federal agency (F.A.A.) under Federal Grant Agreement #9-06-009-5708 (1955), no later than November 12, 1964 amounted to a "TAKING" – it was obviously uncompensated – within the amendment's proscription.

6. The appropriation of the beneficial use of plaintiffs property by the state and federal agencies is analogous to the appropriation of the use of private property in *United States v. Causby*, 328 U.S. 256 (1946). "Causby" emphasized that government had not 'merely destroyed property [but was] using a part of it for the flight of its planes.' " *Penn Central*, 438 U.S. at 128 quoting from *Causby*, 328 U.S. at 262-263, n. 7.

To put it another way: A state, *by ipse dixit*, may not transform private property into public property without compensation, even for the limited duration of the deposit in court. *Webb's Fabulous Pharmacies, Inc. v. Beckwith*, 449 U.S. 155 (1980). This is the very kind of thing that the taking clause of the Fifth Amendment was meant to prevent. That clause stands as a shield against the arbitrary use of governmental power.

7. Where the twice discharged and withdrawn private counsel took the action with the malicious intention to cause a deprivation of constitutional rights, or other injury to plaintiff, acted "with such disregard of the

[plaintiffs] clearly established constitutional rights that their action cannot reasonably be characterized as being in good faith." *Wood v. Strickland*, 420 U.S. 322 (1974). Where the constitutional right allegedly infringed by them was clearly established at the time of their challenged conduct, where they knew or should have known of that right, their conduct violated the constitutional norm, and, the state Supreme Court, putting a stamp of approval on such malicious intention to cause a deprivation of constitutional rights denied a right, a privilege claimed under the Constitution of the United States.

8. Where the right to compensation was a vested property right and the right of the plaintiff in error was fixed by the law in force when the property was damaged for public purposes, in addition to the special legislation (Special Act #170 (1969), *Simmons v. Wetherall* (1970)), and the right so vested cannot be defeated or destroyed by subsequent intervention of private counsel INVALIDATING the special legislation, giving retrospective effect to a decree by dating it back to November 12, 1964 was constitutional FRAUD and the Connecticut Supreme Court expressing its policy on just compensation in *E. & F. Construction v. Ives*, 156 Conn. at page 420 (1968) wherein they quote the United States Supreme Court, and cite its rulings where property is taken before payment is made, the sanctioning of the INVALIDATION was unconstitutional conduct against the Fifth & Fourteenth Amendments warranting the reversal of the state Supreme Court decree.

9. Pursuant to the dissolution of attachments by the owner on the land records by C.G.S. § 52-327, the real estate shall be free from any lien or encumbrances where

the attachments, without statutory authority, have never been prosecuted to effect. (PL. Ex "A"). Where the Constitution and statutes of this state do, in most express and emphatic terms, prescribe conditions that precede such appropriation and must be complied with before the taking can be complete, the case ought to be sent back to the Superior Court for disposition for two (2) reasons, namely: All the interested and necessary parties are not before the court, and secondly, CANNOT, in this proceeding be brought before the court. *Marshall v. Clark*, 170 Conn. 195 at 205 (1976).

10. The court can always control its own process; and will never permit void writs to be issued and executed, when brought to its attention, and it can make no difference whether the effort to resist the issuance and execution of such process is made within one, or after a lapse of ten years, from, the date of the void judgment. *Harris v. Hardeman*, 55 U.S. 334 (1852).

11. A void judgment rendered without service of process and therefore without jurisdiction, may be set aside at any time for "IRREGULARITY." *Pettis v. Johnson*, 78 Okla. 277, 190 Pac 681; *Hockaday v. Jones*, 8 Okla. 156, 56 Pac 1054 (1899); *Chehalis Coal v. Laisure*, 97 Wash. 422, 166 Pac 1158 (1917).

12. A court of limited or inferior jurisdiction cannot by its own finding confer on itself a jurisdiction whereupon the real facts there is none.

ARGUMENT

The constitutional validity of a decree by the state Supreme Court acting under a special legislative enactment (Special Act. #170 (1969), *Simmons v. Wetherall*, #163875 (1970)) does not authorize such unconstitutional conduct as was entered in this cause on the land records but not with the trial court or court of first instance by twice discharged private counsel who had officially withdrawn from representation of the owner on April 19, 1978, prior to entering "supplemental judgments" *ex parte* on June 2nd and 5th on the land records; prior to service of process or publication of notice – that was never made. See *Pennoyer v. Neff*, 95 U.S. 714 (1877), also *Brandriff v. Sellas*, 40 Conn. Sup. 243 (1985), *Marshall v. Clark*, 170 Conn. 199 at 205 (1976), denying all rights to plaintiff upon a seizure of federal grant agreement real property, occupied and used by governmental agency action, F.A.A., who were never mentioned or made a party to any proceedings for airport navigational installations, without condemnation or exercise in eminent domain or payment of just compensation; where plaintiff alleged that the omission of the name, title, and interest, of said plaintiff by said private counsel (Rogin-Hirtle, Esq.'s), or, to serve upon said plaintiff any personal notice of the fact of the filing of the said "supplemental judgment" or of the hearing thereon were and each of them was willful, intentional fraud and done for the purpose of defrauding said plaintiff and depriving it of its said interest in said premises without the basic, fundamental due process of law; whose arbitrary, oppressive, unjust, unconstitutional and fraudulent conduct was terminated with two (2) discharges and a withdrawal from representation on April

19, 1978, prior to "freezing" governmentally occupied real property on June 2nd and 5th without subject matter jurisdiction or jurisdiction of the parties, and, no returns of service to the Superior Court that would give the trial court jurisdiction and where the statute (Special Act # 170) makes provision for damages that was invalidated, destroyed was an infringement of plaintiff's constitutional rights for just compensation.

Where the Supreme Court dismissed the most recent MOTION TO REMAND, dated November 4, 1999 for assessment of damages, and, where a "TAKING" for public use without compensation can be corrected by payment, while a governmental action that violates due process requirements may be invalidated, without regard to whether compensation is provided and where the highest court of a state transmogrified plaintiff's tort action into an eminent domain action that is repugnant to the Constitution, treaties, laws of the United States, the validity of such exercise is the question for review.

P.L. 91-646 UNIFORM REAL PROPERTY ACQUISITION ACT

In *McCulloch v. Maryland*, 4 Wheat, 316, 436, decided in 1819, this court declared the states devoid of power – "to retard, impede, burden, or in any manner control, the operation of the constitutional laws enacted by Congress to carry into execution the powers vested in the general government."

In *Davis v. Elmira Savings Bank*, 161 U.S. 275, 16 S.Ct. 502, 40 L.Ed. 700 decided in 1896, this court declared that

a state law cannot stand that "either frustrates the purpose of the national legislation or impairs the efficiency of those agencies of the federal government to discharge the duties, for the performance of which they were created" 161 U.S. at 283, 16 S.Ct. at 503. And again in *Hill v. State of Florida ex Rel. Watson*, 325 U.S. 538, 542-543, 65 S.Ct. 1373, 1375, 89 L.Ed. 1782, decided in 1945, this court struck down a labor regulation saying it stood " 'as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress * * * .' " 325 U.S. at 542, 65 S.Ct. at 1375.

Congress had made it clear that all real property owners involved in activity within the scope of the act to be completely free from coercion against subversive tactics. 42 U.S.C. § 4601, sec. 7.

Questions arising in state court relating to scope or construction of applicable federal statutes and regulations thereunder are federal questions which may be appropriately reviewed by the Supreme Court on Certiorari, *Jacobson v. New York, N.H. & H.R. Co.*, 206 F.2d 153 at page 157 (2d Cir. 1953); *Moore v. Chesapeake & Ohio Ry. Co.*, 291 U.S. 205, 54 S.Ct. 402, 78 L.Ed. 755 (1934). See Harvard L. Rev. 1499 (1953).

SIMMONS V. WETHERALL #163875

The constitutional validity of a decree of the Supreme Court of Connecticut acting under a special legislative enactment (Special Act #170 (1969), *Simmons v. Wetherall*, #163875 (1970)) that does not authorize such a "judgment" as was entered in this cause or to make its entry

the event upon which title is changed. The statute (act) contains no provision or authority for any such dual process, and the record utterly fails to show that any such was issued, or that the defendant appeared at all in said suit at any time.

Where the judgment was entered *ex parte* on the land records but not with the trial court or court of first instance by twice discharged private counsel, who had officially withdrawn from representation of the owner on April 19, 1978 (Ex. "C" & "D"), prior to putting encumbrances on the land records; prior to service of process or publication of notice (see *Pennoyer v. Neff*, 95 U.S. 714 (1877)), which service or notice was never made, denying all rights to plaintiff.

Respectfully submitted,

Augustus J. Simmons, Petitioner
P.O. Box # 1
Windsor, CT 06095
(860) 569-6714

EXHIBIT I

This Item Is The Lodging Submitted Herewith

EXHIBIT II

STATE OF CONNECTICUT

SUPREME COURT

NO. CV70-0163875

AUGUSTUS J. SIMMONS

v.

HORACE B. WETHERALL ET AL. :NOVEMBER 30, 1999

ORDER

THE MOTION OF THE PLAINTIFF, FILED NOVEMBER 4, 1999, TO REMAND TO SUPERIOR COURT TO APPOINT REFEREES TO DETERMINE JUST COMPENSATION FOR TAKING, HAVING BEEN PRESENTED TO THE COURT, IS HEREBY ORDERED **DISMISSED.**

BY THE COURT,

/s/ Francis Drumm
CHIEF CLERK

NOTICE SENT: DECEMBER 1, 1999
AUGUSTUS J. SIMMONS, PRO SE
OTTO P. WITT
ROGIN, NASSUA, CAPLAN, LASSMAN & HIRTLE
CLERK, HARTFORD J.D.
HON. JOHN J. LANGENBACH

165/991168

EXHIBIT III

NO. 16 38 75

AUGUSTUS J. SIMMONS	:	SUPERIOR COURT
VS.	:	HARTFORD COUNTY
	:	JUNE 15, 1976
HORACE B. WETHERALL, ET AL	:	

MOTION FOR APPROVAL OF STIPULATION FOR AND ORDER OF REFERENCE

(Filed June 16, 1976)

The Defendants in the above entitled cause hereby move that the Court approve the Stipulation of the parties for referral of this case to a State Referee for all further proceedings and judgment in accordance with G.S. Sections 52-434 and 52-434a, together with the power to proceed therewith as if the subject matter had been originally brought before such State Referee rather than as a jury trial which has now been waived by all parties.

DEFENDANTS,

By: CARL R. AJELLO
ATTORNEY GENERAL

/s/ Victor Feingold
Victor Feingold
85320
Assistant Attorney General
Transportation Department
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Hartford, Conn. 06114

Certified in accordance with
Practice Book, Section 80, and
foregoing document was made by
mailing to:

David B. Salzman, Esq.
36 Cannon Street
Hamden, Connecticut 06518

/s/ Victor Feingold
Victor Feingold
Assistant Attorney General

6-2-76

The case of Augustus J. Simmons v Horace B. Wetherall, #163875 is ordered referred to Shapiro, J

(By the Court) Dannehy, J

Judge Shapiro notified

NO. 16 38 75

AUGUSTUS J. SIMMONS	:	SUPERIOR COURT
	:	HARTFORD COUNTY
VS.	:	JUNE 10, 1976
HORACE B.	:	
WETHERALL, ET AL	:	

STIPULATION FOR AND ORDER OF REFERENCE

STIPULATION

(Filed June 16, 1976)

The parties to the above entitled cause hereby stipulate and agree:

1. that a jury trial is waived; and

2. that it may be referred to a State Referee for all further proceedings and judgment.

PLAINTIFF

By: /s/ David B. Salzman
His Attorney

DEFENDANTS,

By: CARL R. AJELLO
ATTORNEY GENERAL

/s/ Victor Feingold
Victor Feingold
Assistant Attorney General

ORDER

Hon. Louis Shapiro, State Referee, is hereby appointed to hear all further proceedings and render judgment on the above-entitled matter.

(6-2-76)
(Dannehy, J.)

BY THE COURT

/s/ Peter H. Gooden
Ass't Clerk